IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No.362 of 2005 (M/B)

1. Sri Harish Chandra S/o Durga Dutt
R/o Village and Post Halduchaur,
Haldwani, District Nainital.

2. Pradeep Kumar S/o Harish Chandra
R/o Village and Post Halduchaur,
Haldwani, District Nainital. ……. Petitioners

Versus

State of Uttaranchal through the Regional
Transport Authority, Kumaon Region,
Haldwani, District Nainital. ……. Respondent

Sri K.N. Joshi, Advocate for the petitioners.
Sri J.P. Joshi, Addl. C.S.C. for respondent.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Sri K.N. Joshi, Advocate for the petitioners.

Sri J.P. Joshi, Addl. Chief Standing Counsel for the respondent.

2. The petitioners have filed this writ petition for the following reliefs:

"i. Issue an order or direction to set aside the condition no. 2 and 3 of the order dated 21.06.2004 of the resolution no.4 which was issued to the petitioners on 24.12.2004 (Annexure no.8 and 9) passed by the respondents.

ii. Issue a writ order or direction in the nature of mandamus directing the respondent to issue permits in favour of the petitioner for plying the passenger vehicles on the sanctioned routes in compliance of the order dated 26.11.1990.

iii. Issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

iv. Award the cost of the petition."

3. In substance, the petitioners are challenging conditions no.2 and 3 of Annexures 8 and 9.

4. Condition no. 2 mandates the person in whose favour order of grant of permit is passed to obtain permit from the office of the Regional Transport Officer within a period of two months from the passing of the order and in the event of failure to do so, penalty @ 1000/- per month shall be payable by the applicant if the permit is obtained within a period of six months. After the expiry of the period of six months, the grant shall stand cancelled automatically.

5. Condition no. 3 prohibits withdrawal of the vehicle and surrender of the permit for a period of first six months. Condition no. 3, however, permits the operator to replace his old bus with new one.

6. The petitioners were granted permits before the filing of the writ petition on 28.12.2004. Admittedly, the petitioners are plying their buses on the basis of the permits granted in their favour. As the petitioners have already obtained permits and the period of first six months relevant for conditions no.3 has already expired, the writ petition, in our opinion, now has become infructuous.

7. The writ petition, therefore, is dismissed as infructuous.

8. Consequently, the interim order dated 29.12.2004 stands vacated automatically.

(Prafulla C. Pant, J.) 21.06.2006

(Rajeev Gupta, C.J.) 21.06.2006

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